

Issuance Date: December 14, 2004

Effective Date: January 1, 2005

Expiration Date: November 30, 2009

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM  
WASTE DISCHARGE PERMIT No. WA-0045241

State of Washington  
DEPARTMENT OF ECOLOGY  
Olympia, Washington 98504-7600

In compliance with the provisions of  
The State of Washington Water Pollution Control Law  
Chapter 90.48 Revised Code of Washington  
and  
The Federal Water Pollution Control Act  
(The Clean Water Act)  
Title 33 United States Code, Section 1251 et seq.

**Permittee:** Solar Grade Silicon, LLC  
3322 Road "N" N.E.  
Moses Lake, WA 98837

**Co-Permittee:** Advanced Silicon Materials, Inc.  
3322 Road "N" N.E.  
Moses Lake, WA 98837

Facility Location:

3322 Road "N" N.E.  
Moses Lake, WA 98837

Water Body I.D. No.:

WA 41-1130

Industry Type:

Production of High Purity Polysilicon

Receiving Water:

Rocky Coulee Drain via Drain DE-226 (Outfall 003)

Publicly Owned Treatment Works Receiving Discharge:

City of Moses Lake, Sand Dunes Treatment Plant (Outfall 001)

Discharge Location:

Latitude: 47° 8' 18" N

Longitude: 119° 12' 22" W

is authorized to discharge in accordance with the special and general conditions which follow.

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James M. Bellatty  
Water Quality Section Manager  
Eastern Regional Office

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**SUMMARY OF PERMIT REPORT SUBMITTALS**

Refer to the Special and General Conditions of this permit for additional submittal requirements.

Permit Section	Submittal	Frequency	First Submittal Date
S3.A	Discharge Monitoring Report	Monthly	February 15, 2005
S3.E	Noncompliance Notification	As necessary	-
S4.A	Operations and Maintenance Manual	-	October 1, 2005
S4.A	Operations and Maintenance Manual Update	As necessary	-
S4.A	Treatment System Operating Plan	-	October 1, 2005
S4.B	Reporting Bypasses	As necessary	-
S5.C	Solid Waste Control Plan	1/permit cycle	May 30, 2009
S5.C	Modification to Solid Waste Plan	As necessary	-
S7.	Spill Plan	1/permit cycle, updates submitted as necessary	October 1, 2005
S9.A	Acute Toxicity Characterization Data	-	Testing by April 1, 2005/60 days after each subsequent sampling event
S9.A	Acute Toxicity Tests Characterization Summary Report	1/permit cycle	90 days following the last characterization sampling event
S9.C	Acute Toxicity Compliance Monitoring Reports	-	June 1, 2006/60 days after each subsequent sampling event
S9.D	Acute Toxicity: "Causes and Preventative Measures for Transient Events."	As necessary	-
S9.D	Acute Toxicity TI/TRE Plan	As necessary	-
S9.E	Acute Toxicity Effluent Characterization with Permit Renewal Application	2/permit cycle	Once in the Last Summer & Once in the Last Winter Prior to Submission of the Renewal Application
S10.A	Chronic Toxicity Characterization Data	-	Testing by April 1, 2005/60 days after each subsequent sampling event

Permit Section	Submittal	Frequency	First Submittal Date
S10.A	Chronic Toxicity Tests Characterization Summary Report	1/permit cycle	90 days following the last characterization sampling event
S10.C	Chronic Toxicity Compliance Monitoring Reports	-	June 1, 2006/60 days after each subsequent sampling event
S10.D	Chronic Toxicity: "Causes and Preventative Measures for Transient Events."	As necessary	-
S10.D	Chronic Toxicity TI/TRE Plan	As necessary	-
S10.E	Chronic Toxicity Effluent Characterization with Permit Renewal Application	2/permit cycle	Once in the Last Summer & Once in the Last Winter Prior to Submission of the Renewal Application
S12.	Engineering Report for TDS reduction	-	July 1, 2006
S13.	Engineering Report for Compliance with Final Limit for pH - Outfall 003	-	January 1, 2006
S14.	Authorization from Bureau of Reclamation/Downstream Irrigation Districts for Discharge to Drain DE 226	-	January 1, 2006
S14.	Status Report Update for Obtaining the Authorization to Discharge to Drain DE 226	As necessary	January 1, 2006
G1.	Notice of Change in Authorization	As necessary	-
G4.	Permit Application for Substantive Changes to the Discharge	As necessary	-
G5.	Engineering Report for Construction or Modification Activities	As necessary	-
G7.	Application for Permit Renewal	1/permit cycle	May 31, 2009
G8	Notice of Permit Transfer	As necessary	-
G21	Reporting Anticipated Non-compliance	As necessary	-
G22	Reporting Other Information	As necessary	-

## SPECIAL CONDITIONS

### S1. DISCHARGE LIMITATIONS

#### A. Outfall 003 - Discharge to Drain DE-226

All discharges and activities authorized by this permit shall be consistent with the terms and conditions of this permit.

The discharge of any of the following pollutants more frequently than, or at a level in excess of, that identified and authorized by this permit shall constitute a violation of the terms and conditions of this permit.

Beginning on the effective date of this permit and lasting through the expiration date, the Permittee is authorized to discharge cooling tower blowdown at the permitted location subject to complying with the following limitations:

<b>EFFLUENT LIMITATIONS: OUTFALL # 003</b>		
<b>Parameter</b>	<b>Average Monthly<sup>a</sup></b>	<b>Maximum Daily<sup>b</sup></b>
Total Dissolved Solids (TDS), mg/L	-	2,500
Total Residual Chlorine, µg/L	7.2 <sup>1,2</sup>	18.2 <sup>1,3</sup>
Arsenic, µg/L	-	50
Hydrocarbon Oil and Grease, mg/L	No Detectable Amount <sup>4</sup>	
The 126 Priority Pollutants <sup>c</sup>	No chemicals shall be added for cooling tower maintenance which contain any of the priority pollutants	
<b>Parameter</b>	<b>Interim Limitations<sup>d</sup></b>	<b>Final Limitations<sup>d</sup></b>
pH, s.u.	Daily minimum is equal to or greater than 6 and the daily maximum is less than or equal to 9.5 <sup>e</sup>	Daily minimum is equal to or greater than 6.5 and the daily maximum is less than or equal to 8.5 <sup>f</sup>
<sup>a</sup> The average monthly effluent limitation is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.		
<sup>b</sup> The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For other units of measurement, the daily discharge is the average measurement of the pollutant over the day.		
<sup>c</sup> As listed in Appendix A of 40 CFR Part 423.		
<sup>d</sup> See Special Condition S13. for the schedule of compliance for this limitation.		
<sup>e</sup> Indicates the range of permitted values. When pH is continuously monitored, excursions between 5.0 and 6.0, or 9.5 and 10.5 shall not be considered violations provided no single excursion exceeds 60 minutes in length and total excursions do not exceed 7 hours and 30 minutes per month. Any excursions below 5.0 and above 10.5 are violations. The instantaneous maximum and minimum pH shall be reported monthly.		

<sup>f</sup>Indicates the range of permitted values. When pH is continuously monitored, excursions between 5.5 and 6.5, or 8.5 and 9.5 shall not be considered violations provided no single excursion exceeds 60 minutes in length and total excursions do not exceed 7 hours and 30 minutes per month. Any excursions below 5.5 and above 9.5 are violations. The instantaneous maximum and minimum pH shall be reported monthly.

Footnotes:

<sup>(1)</sup>The method detection level (MDL) for total residual chlorine is 10 µg/L using DPD colorimetric method and method number 330.5 from 40 CFR Part 136 (Standard Method 4500-CL G). The quantification level (QL) for total residual chlorine is 50 µg/L (5 x MDL).

This QL will be used for assessment of compliance with these effluent limits. If the Permittee is unable to attain the MDL and QL in its effluent due to matrix effects, the Permittee shall submit a matrix specific MDL and QL to the Department by three months after the effective date of this permit. The matrix specific MDL and QL shall be calculated as follows:

MDL = 3.14 x (standard deviation of 7 replicate spiked samples). This corresponds to the calculation of the method detection limit, as defined in 40 CFR Part 136, Appendix B, with the provision that the MDL be calculated for a specific effluent matrix.

The QL = 5 x MDL

Check standards at concentrations equal to the QL shall be analyzed alongside all compliance monitoring samples. Check standards shall be produced independently of calibration standards and maintained as a part of the Permittee's records. All check standard recovery data and duplicate measurements shall be submitted to the Department in the discharge monitoring report. The Department's precision goal is +/- 20%.

When the maximum daily effluent limit is greater than the QL, compliance determinations are made by direct comparison of the limit with the sample measurement. When the maximum daily effluent limit is less than the QL, samples measured below the QL may be in compliance with the effluent limit, and data in this range will usually not be used to support enforcement actions.

<sup>(2)</sup>Average values shall be calculated as follows: measurements below the MDL = 0; measurements greater than the MDL = the measurement.

<sup>(3)</sup>If the measured effluent concentration is below the QL as determined in Footnote #1 above, the Permittee shall report NQ for non-quantifiable.

<sup>(4)</sup>The quantification level (QL) for hydrocarbon oil and grease (silica gel treated hexane extractable material) is 1 mg/L using EPA method number 1664, revision A from 40 CFR Part 136.

Sample results showing non quantification at 1 mg/L for oil and grease (hexane extractable material) using EPA method number 1664, revision A from CFR Part 136 will be considered in lieu of testing results for hydrocarbon oil and grease (silica gel treated hexane extractable material).

B. Mixing Zone Descriptions - Outfall #003

The maximum boundaries of the mixing zone for the parameters pH, dissolved oxygen, and temperature are defined as follows:

(1) not extend in a downstream direction from the discharge point greater than 300 feet;

(2) not utilize greater than 25 percent of the flow; and not occupy greater than 25 percent of the width of the waterbody.

For all other parameters, there is no mixing zone specified: dilution factor equals 1.0 with a chronic critical effluent concentration (CCEC) and acute critical effluent concentration (ACEC) of 100% effluent.

**C. Outfall 001 - City of Moses Lake Municipal Sewer System (Low Chloride Wastewater)**

During the period beginning on the effective date and lasting through the expiration date of this permit, the Permittee is authorized to discharge low chloride process wastewater to the City of Moses Lake municipal sewer system subject to the following limitations:

	<b>EFFLUENT LIMITATIONS: OUTFALL # 001</b>	
<b>Parameter</b>	<b>Average Monthly<sup>a</sup></b>	<b>Maximum Daily<sup>b</sup></b>
Flow, gpd	110,000	132,000
pH <sup>c</sup> , s.u.	within the range 6.0 - 11.0	
Oil and Grease, mg/L	-	100
TDS, lbs/day	2,352	3,965
Chloride, lbs/day	26.2	47.3
Sodium, lbs/day	333	552
Fluoride, lbs/day	28	46
BOD <sub>5</sub> , mg/L	-	300
TSS, mg/L	350	-
<sup>a</sup> The average monthly effluent limitation is defined as the highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.		
<sup>b</sup> The maximum daily effluent limitation is defined as the highest allowable daily discharge. The daily discharge means the discharge of a pollutant measured during a calendar day. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For other units of measurement, the daily discharge is the average measurement of the pollutant over the day.		
<sup>c</sup> Indicates range of permitted values. The instantaneous maximum and minimum pH shall be reported monthly.		

**D. Outfall 004 - High Chloride Wastewater**

Beginning on the date of issuance and lasting through the expiration date of this permit, the Permittee is authorized to discharge high chloride process wastewater to evaporation ponds. There shall be no discharge of high chloride wastewater to either outfalls 001 or 003, or in any manner to surface water of the State or to the City of Moses Lake's wastewater treatment plant.



**S2. MONITORING REQUIREMENTS**

The Permittee shall monitor in accordance with the following schedule:

**A. Monitoring Schedule**

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
Outfall 003 Wastewater	Flow	gpd	Fire Pond Discharge	Continuous <sup>a</sup>	Meter
“	Temperature	°F	“	“	“
“	Conductivity	µmhos/cm	“	“	“
“	pH	Standard Units	“	“	“
“	Total Residual Chlorine	µg/L	“	5/week	Grab
“	TDS	mg/L	“	3/week	24 hour composite
“	Arsenic	µg/L	“	1/month	“
“	Oil and Grease	mg/L	“	1/week	Grab
“	The 126 Priority Pollutants <sup>b</sup>	µg/L	“	1/year	24-hour composite <sup>c</sup>
Outfall 001 Wastewater	Flow	gpd	Metering Manhole	Continuous <sup>a</sup>	Meter
“	Temperature	°F	“	“	“
“	Conductivity	µmhos/cm	“	“	“
“	pH	Standard Units	“	“	“
“	Oil and Grease	mg/L	“	1/week	Grab
“	TDS	mg/L	“	1/week	24 hour composite
“	BOD <sub>5</sub>	mg/L	“	1/week	“
“	Nitrate	mg/L	“	“	“
“	Fluoride	mg/L	“	5/week	“
“	Sodium	mg/L	“	“	“
“	Chloride	mg/L	“	“	“

Category	Parameter	Units	Sample Point	Minimum Sampling Frequency	Sample Type
“	TSS	mg/L	“	“	“
“	Calcium	mg/L	“	“	“
“	Sulfate	mg/L	“	“	“
DE 226 Receiving Water Sampling	Temperature	°F	Upstream/ Downstream from the discharge point <sup>d</sup>	1/month	Grab
“	Dissolved Oxygen	mg/L	“	“	“
“	pH	s.u.	“	“	“
Outfall 003 Wastewater	Acute Toxicity Testing	-	Fire Pond Discharge	See Section S9.	24 hour composite
“	Chronic Toxicity Testing	-	“	See Section S10.	“
<sup>a</sup> Continuous means uninterrupted - except for brief lengths of time for calibration, power failure, or for unanticipated equipment repair or maintenance. At a minimum, sampling shall be taken four times per day when continuous monitoring is not possible.					
<sup>b</sup> As contained in Appendix A of 40 CFR Part 423					
<sup>c</sup> Instead of monitoring for the 126 priority pollutants, compliance with the limitation for the 126 priority pollutants may be determined by engineering calculations which demonstrate that the regulated pollutants are not detectable in the final discharge by the analytical methods in 40 CFR part 136. This calculation shall be updated whenever there is a change in chemicals used for cooling tower maintenance.					
<sup>d</sup> Downstream samples shall be collected 300 feet downstream from the discharge point. If freezing weather during the month makes sampling the receiving water unsafe, this monitoring may be omitted. If the monitoring is not conducted due to freezing weather, this shall be noted as such on the discharge monitoring report.					

**B. Sampling and Analytical Procedures**

Samples and measurements taken to meet the requirements of this permit shall be representative of the volume and nature of the monitored parameters, including representative sampling of any unusual discharge or discharge condition, including bypasses, upsets, and maintenance-related conditions affecting effluent quality.

Sampling and analytical methods used to meet the monitoring requirements specified in this permit shall conform to the latest revision of the *Guidelines Establishing Test Procedures for the Analysis of Pollutants* contained in 40 CFR Part 136 or to the latest revision of *Standard Methods for the Examination of Water and Wastewater* (APHA), unless otherwise specified in this permit or approved in writing by the Department of Ecology (Department).

**C. Flow Measurement**

Appropriate flow measurement devices and methods consistent with accepted scientific practices shall be selected and used to ensure the accuracy and reliability of measurements of the quantity of monitored flows. The devices shall be installed, calibrated, and maintained to ensure that the accuracy of the measurements are consistent with the accepted industry standard for that type of device. Frequency of calibration shall be in conformance with manufacturer's recommendations and at a minimum frequency of at least one calibration per year. Calibration records shall be maintained for at least three years.

**D. Laboratory Accreditation**

All monitoring data required by the Department shall be prepared by a laboratory registered or accredited under the provisions of, *Accreditation of Environmental Laboratories*, Chapter 173-50 WAC. Flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters are exempt from this requirement. Conductivity and pH shall be accredited if the laboratory must otherwise be registered or accredited. The Department exempts crops, soils, and hazardous waste data from this requirement pending accreditation of laboratories for analysis of these media.

**S3. REPORTING AND RECORDKEEPING REQUIREMENTS**

The Permittee shall monitor and report in accordance with the following conditions. The falsification of information submitted to the Department shall constitute a violation of the terms and conditions of this permit.

**A. Reporting**

The first monitoring period begins on the effective date of the permit. Monitoring results shall be submitted monthly. Monitoring data obtained during each monitoring period shall be summarized, reported, and submitted on a Discharge Monitoring Report (DMR) form provided, or otherwise approved, by the Department. DMR forms shall be received no later than the 15th day of the month following the completed monitoring period, unless otherwise specified in this permit. Priority pollutant analysis data shall

be submitted no later than forty-five (45) days following the monitoring period. Unless otherwise specified, all toxicity test data shall be submitted within sixty (60) days after the sample date. The report(s) shall be sent to the Department of Ecology, 4601 N. Monroe, Spokane, Washington 99205-1295.

All laboratory reports providing data for organic and metal parameters shall include the following information: sampling date, sample location, date of analysis, parameter name, CAS number, analytical method/ number, method detection limit (MDL), laboratory practical quantification limit (PQL), reporting units, and concentration detected.

Discharge Monitoring Report forms must be submitted monthly whether or not the facility was discharging. If there was no discharge during a given monitoring period, submit the form as required with the words "no discharge" entered in place of the monitoring results.

**B. Records Retention**

The Permittee shall retain records of all monitoring information for a minimum of three (3) years. Such information shall include all calibration and maintenance records and all original recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Permittee or when requested by the Director.

**C. Recording of Results**

For each measurement or sample taken, the Permittee shall record the following information: (1) the date, exact place, method, and time of sampling or measurement; (2) the individual who performed the sampling or measurement; (3) the dates the analyses were performed; (4) the individual who performed the analyses; (5) the analytical techniques or methods used; and (6) the results of all analyses.

**D. Additional Monitoring by the Permittee**

If the Permittee monitors any pollutant more frequently than required by this permit using test procedures specified by Condition S2. of this permit, then the results of this monitoring shall be included in the calculation and reporting of the data submitted in the Permittee's DMR.

**E. Noncompliance Notification**

In the event the Permittee is unable to comply with any of the terms and conditions of this permit due to any cause, the Permittee shall:

1. Immediately take action to stop, contain, and clean up unauthorized discharges or otherwise stop the noncompliance, correct the problem and, if applicable, repeat sampling and analysis of any noncompliance immediately and submit the results to the Department within thirty (30) days after becoming aware of the violation.

2. Immediately notify the Department of the failure to comply.
3. Submit a detailed written report to the Department within thirty (30) days (five [5] days for upsets and bypasses), unless requested earlier by the Department. The report shall contain a description of the noncompliance, including exact dates and times, and if the noncompliance has not been corrected, the anticipated time it is expected to continue; and the steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

Compliance with these requirements does not relieve the Permittee from responsibility to maintain continuous compliance with the terms and conditions of this permit or the resulting liability for failure to comply.

F. Maintaining a Copy of This Permit

A copy of this permit must be kept at the facility and be made available upon request to Ecology inspectors.

#### **S4. OPERATION AND MAINTENANCE**

The Permittee shall, at all times, properly operate and maintain all facilities or systems of treatment and control (and related appurtenances) which are installed to achieve compliance with the terms and conditions of this permit. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. This provision requires the operation of back-up or auxiliary facilities or similar systems, which are installed by a Permittee only when the operation is necessary to achieve compliance with the conditions of this permit.

A. Operations and Maintenance Manual

An updated Operation and Maintenance (O&M) Manual shall be submitted to the Department for approval by October 1, 2005. It shall conform to the requirements of WAC 173-240-150. In addition to the requirements of WAC 173-240-150(1) and (2), the O&M Manual shall include:

1. Emergency procedures for plant shutdown and cleanup in event of wastewater system upset or failure.
2. Plant maintenance procedures.
3. The treatment plant process control monitoring schedule.
4. Receiving water monitoring procedures.

Substantial changes or updates to the O&M Manual shall be submitted to the Department for review and approval whenever they are incorporated into the manual.

The approved Operations and Maintenance Manual shall be kept available at the permitted facility and all operators are responsible for being familiar with, and using, this manual.

A Treatment System Operating Plan (TSOP) shall be submitted to the Department as the initial chapter of the updated O&M Manual. This chapter shall be entitled the "Treatment System Operating Plan." For the purposes of this NPDES permit, a TSOP is a concise summary of specifically defined elements of the O&M Manual. The TSOP shall not conflict with the O&M Manual and shall include the following information:

1. A baseline operating condition, which describes the operating parameters and procedures, used to meet the effluent limitations of S1. at the production levels used in developing these limitations.
2. In the event of production rates, which are below the baseline levels used to establish these limitations, the plan shall describe the operating procedures and conditions needed to maintain design treatment efficiency. The monitoring and reporting shall be described in the plan.
3. In the event of an upset, due to plant maintenance activities, severe stormwater events, start ups or shut downs, or other causes, the plan shall describe the operating procedures and conditions employed to mitigate the upset. The monitoring and reporting shall be described in the plan.
4. A description of any regularly scheduled maintenance or repair activities at the facility which would affect the volume or character of the wastes discharged to the wastewater treatment system and a plan for monitoring and treating/controlling the discharge of maintenance-related materials (such as cleaners, degreasers, solvents, etc.).

An updated Treatment System Operating Plan (TSOP) shall be submitted to the Department with the application for renewal 180 days prior to expiration of the permit. This plan shall be updated and submitted, as necessary, to include requirements for any major modifications of the treatment system.

**B. Bypass Procedures**

Bypass, which is the intentional diversion of waste streams from any portion of a treatment facility, is prohibited, and the Department may take enforcement action against a Permittee for bypass unless one of the following circumstances (1, 2, or 3) is applicable.

1. Bypass for Essential Maintenance without the Potential to Cause Violation of Permit Limits or Conditions.

Bypass is authorized if it is for essential maintenance and does not have the potential to cause violations of limitations or other conditions of this permit, or adversely impact public health as determined by the Department prior to the bypass. The Permittee shall submit prior notice, if possible, at least ten (10) days before the date of the bypass.

2. Bypass that is Unavoidable, Unanticipated, and Results in Noncompliance of this Permit.

This bypass is permitted only if:

- a. Bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which would cause them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass.
  - b. There are no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment downtime (but not if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance), or transport of untreated wastes to another treatment facility.
  - c. The Department is properly notified of the bypass as required in condition S3E of this permit.
3. Bypass that is Anticipated and has the Potential to Result in Noncompliance of this Permit.

The Permittee shall notify the Department at least thirty (30) days before the planned date of bypass. The notice shall contain (1) a description of the bypass and its cause; (2) an analysis of all known alternatives which would eliminate, reduce, or mitigate the need for bypassing; (3) a cost-effectiveness analysis of alternatives including comparative resource damage assessment; (4) the minimum and maximum duration of bypass under each alternative; (5) a recommendation as to the preferred alternative for conducting the bypass; (6) the projected date of bypass initiation; (7) a statement of compliance with SEPA; (8) a request for modification of water quality standards as provided for in WAC 173-201A-110, if an exceedance of any water quality standard is anticipated; and (9) steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

For probable construction bypasses, the need to bypass is to be identified as early in the planning process as possible. The analysis required above shall be considered during preparation of the engineering report or facilities plan and plans and specifications and shall be included to the extent practical. In cases where the probable need to bypass is determined early, continued analysis is necessary up to and including the construction period in an effort to minimize or eliminate the bypass.

The Department will consider the following prior to issuing an administrative order for this type bypass:

- a. If the bypass is necessary to perform construction or maintenance-related activities essential to meet the requirements of this permit.

- b. If there are feasible alternatives to bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, stopping production, maintenance during normal periods of equipment down time, or transport of untreated wastes to another treatment facility.
- c. If the bypass is planned and scheduled to minimize adverse effects on the public and the environment.

After consideration of the above and the adverse effects of the proposed bypass and any other relevant factors, the Department will approve or deny the request. The public shall be notified and given an opportunity to comment on bypass incidents of significant duration, to the extent feasible. Approval of a request to bypass will be by administrative order issued by the Department under RCW 90.48.120.

C. Duty to Mitigate

The Permittee is required to take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of this permit that has a reasonable likelihood of adversely affecting human health or the environment.

## **S5. SOLID WASTE DISPOSAL**

A. Solid Waste Handling

The Permittee shall handle and dispose of all solid waste material in such a manner as to prevent its entry into state ground or surface water.

B. Leachate

The Permittee shall not allow leachate from its solid waste material to enter state waters without providing all known, available and reasonable methods of treatment, nor allow such leachate to cause violations of the State Surface Water Quality Standards, Chapter 173-201A WAC, or the State Ground Water Quality Standards, Chapter 173-200 WAC. The Permittee shall apply for a permit or permit modification as may be required for such discharges to state ground or surface waters.

C. Solid Waste Control Plan

The Permittee shall submit all proposed revisions or modifications to the solid waste control plan to the Department. The Permittee shall comply with any plan modifications. The Permittee shall submit an update of the solid waste control plan with the application for permit renewal 180 days prior to the expiration date of the permit.

## **S6. NON-ROUTINE AND UNANTICIPATED DISCHARGES**

- A. Beginning on the effective date of this permit, the Permittee may discharge non-routine wastewater on a case-by-case basis if approved by the Department. Prior to any such discharge, the Permittee shall contact the Department and **at a minimum** provide the following information:



1. The nature of the activity that is generating the discharge.
  2. Any alternatives to the discharge, such as reuse, storage, or recycling of the water.
  3. The total volume of water expected to be discharged.
  4. The results of the chemical analysis of the water. The water shall be analyzed for all constituents limited for the Permittee's discharge. The analysis shall also include hardness, any metals that are limited by water quality standards, and any other parameter deemed necessary by the Department. All discharges must comply with the effluent limitations as established in Condition S1. of this permit, water quality standards, sediment management standards, and any other limitations imposed by the Department.
  5. The date of proposed discharge and the rate at which the water will be discharged, in gallons per minute. The discharge rate shall be limited to that which will not cause erosion of ditches or structural damage to culverts and their entrances or exits.
  6. If the proposed discharge is to a municipal storm drain and is approved by the Department, the Permittee shall notify the municipality of the discharge.
- B. The discharge cannot proceed until the Department has reviewed the information provided and has authorized the discharge. Authorization from the Department will be by letter to the Permittee or by an Administrative Order.

## **S7. SPILL PLAN**

The Permittee shall submit to the Department by October 1, 2005, an update to the existing Spill Control Plan for the prevention, containment, and control of spills or unplanned discharges of: 1) oil and petroleum products, 2) materials, which when spilled, or otherwise released into the environment, are designated Dangerous (DW) or Extremely Hazardous Waste (EHW) by the procedures set forth in WAC 173-303-070, or 3) other materials which may become pollutants or cause pollution upon reaching state's waters. The Permittee shall review and update the Spill Plan, as needed, at least annually. Changes to the plan shall be sent to the Department. The plan and any supplements shall be followed throughout the term of the permit.

The updated spill control plan shall include the following:

- A description of the reporting system which will be used to alert responsible managers and legal authorities in the event of a spill.
- A description of preventive measures and facilities (including an overall facility plot showing drainage patterns) which prevent, contain, or treat spills of these materials.
- A list of all oil and chemicals used, processed, or stored at the facility which may be spilled into state waters.

For the purpose of meeting this requirement, plans and manuals, or portions thereof, required by 33 CFR 154, 40 CFR 109, 40 CFR 110, 40 CFR Part 112, the Federal Oil Pollution Act of 1990, Chapter 173-181, and contingency plans required by Chapter 173-303 WAC may be submitted.

## S9. ACUTE TOXICITY

### A. Effluent Characterization

The Permittee shall conduct acute toxicity testing on the final effluent (Outfall 003) to determine the presence and amount of acute (lethal) toxicity. The two acute toxicity tests listed below shall be conducted on each sample taken for effluent characterization.

Effluent characterization for acute toxicity shall be conducted quarterly for one year. Acute toxicity testing shall follow protocols, monitoring requirements, and quality assurance/quality control procedures specified in this section. A dilution series consisting of a minimum of five concentrations and a control shall be used to estimate the concentration lethal to 50% of the organisms (LC<sub>50</sub>). The percent survival in 100% effluent shall also be reported.

Testing shall begin within sixty (60) days of the permit effective date.

Acute toxicity tests shall be conducted with the following species and protocols:

1. Fathead minnow, *Pimephales promelas* (96 hour static-renewal test, method: EPA/600/4-90/027F).
2. Daphnid, *Ceriodaphnia dubia*, *Daphnia pulex*, or *Daphnia magna* (48 hour static test, method: EPA/600/4-90/027F). The Permittee shall choose one of the three species and use it consistently throughout effluent characterization.

### B. Effluent Limit for Acute Toxicity

The Permittee has an effluent limit for acute toxicity if, after completing one year of effluent characterization, either:

1. The median survival of any species in 100% effluent is below 80%.
2. Any one test of any species exhibits less than 65% survival in 100% effluent.

If an effluent limit for acute toxicity is required by subsection B at the end of one year of effluent characterization, the Permittee shall immediately complete all applicable requirements in subsections C, D, and F.

If no effluent limit is required by subsection B at the end of one year of effluent characterization, then the Permittee shall complete all applicable requirements in subsections E and F.

**The effluent limit for acute toxicity is no acute toxicity detected in a test concentration representing the acute critical effluent concentration (ACEC).**

In the event of failure to pass the test described in subsection C. of this section for compliance with the effluent limit for acute toxicity, the Permittee is considered to be in compliance with all permit requirements for acute whole effluent toxicity as long as the requirements in subsection D. are being met to the satisfaction of the Department.

The ACEC means the maximum concentration of effluent during critical conditions at the boundary of the zone of acute criteria exceedance assigned pursuant to WAC 173-201A-100. The zone of acute criteria exceedance is authorized in Section   ?   of this permit. The ACEC equals 100% effluent.

C. Monitoring for Compliance With an Effluent Limit for Acute Toxicity

Monitoring to determine compliance with the effluent limit shall be conducted quarterly for the remainder of the permit term using each of the species listed in subsection A on a rotating basis and performed using at a minimum 100% effluent, the ACEC, and a control. The Permittee shall schedule the toxicity tests in the order listed in the permit unless the Department notifies the Permittee in writing of another species rotation schedule. The percent survival in 100% effluent shall be reported for all compliance monitoring.

Compliance with the effluent limit for acute toxicity means no statistically significant difference in survival between the control and the test concentration representing the ACEC. The Permittee shall immediately implement subsection D if any acute toxicity test conducted for compliance monitoring determines a statistically significant difference in survival between the control and the ACEC using hypothesis testing at the 0.05 level of significance (Appendix H, EPA/600/4-89/001). If the difference in survival between the control and the ACEC is less than 10%, the hypothesis test shall be conducted at the 0.01 level of significance.

D. Response to Noncompliance With an Effluent Limit for Acute Toxicity

If the Permittee violates the acute toxicity limit in subsection B, the Permittee shall begin additional compliance monitoring within one week from the time of receiving the test results. This additional monitoring shall be conducted weekly for four consecutive weeks using the same test and species as the failed compliance test. Testing shall determine the LC<sub>50</sub> and effluent limit compliance. The discharger shall return to the original monitoring frequency in subsection C after completion of the additional compliance monitoring.

If the Permittee believes that a test indicating noncompliance will be identified by the Department as an anomalous test result, the Permittee may notify the Department that the compliance test result might be anomalous and that the Permittee intends to take only one additional sample for toxicity testing and wait for notification from the Department before completing the additional monitoring required in this subsection. The notification to the Department shall accompany the report of the compliance test result and identify the reason for considering the compliance test result to be anomalous. The Permittee shall complete all of the additional monitoring required in this subsection as soon as possible after notification by the Department that the compliance test result was not anomalous. If the one additional sample fails to comply

with the effluent limit for acute toxicity, then the Permittee shall proceed without delay to complete all of the additional monitoring required in this subsection. The one additional test result shall replace the compliance test result upon determination by the Department that the compliance test result was anomalous.

If all of the additional compliance monitoring conducted in accordance with this subsection complies with the permit limit, the Permittee shall search all pertinent and recent facility records (operating records, monitoring results, inspection records, spill reports, weather records, production records, raw material purchases, pretreatment records, etc.) and submit a report to the Department on possible causes and preventive measures for the transient toxicity event which triggered the additional compliance monitoring.

If toxicity occurs in violation of the acute toxicity limit during the additional compliance monitoring, the Permittee shall submit a Toxicity Identification/Reduction Evaluation (TI/RE) plan to the Department. The TI/RE plan submittal shall be within sixty (60) days after the sample date for the fourth additional compliance monitoring test. If the Permittee decides to forgo the rest of the additional compliance monitoring tests required in this subsection because one of the first three additional compliance monitoring tests failed to meet the acute toxicity limit, then the Permittee shall submit the TI/RE plan within sixty (60) days after the sample date for the first additional monitoring test to violate the acute toxicity limit. The TI/RE plan shall be based on WAC 173-205-100(2) and shall be implemented in accordance with WAC 173-205-100(3).

E. Monitoring When There Is No Permit Limit for Acute Toxicity

The Permittee shall test final effluent once in the last summer and once in the last winter prior to submission of the application for permit renewal. All species used in the initial acute effluent characterization or substitutes approved by the Department shall be used, and results submitted to the Department as a part of the permit renewal application process.

F. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication # WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.

2. Testing shall be conducted on 24-hour composite effluent samples. Composite samples taken for toxicity testing shall be cooled to 4 degrees Celsius while being collected and shall be sent to the lab immediately upon completion. Grab samples must be shipped on ice to the lab immediately upon collection. If a grab sample is received at the testing lab within one hour after collection, it must have a temperature below 20° C at receipt. If a grab sample is received at the testing lab within 4 hours after collection, it must be below 12° C at receipt. All other samples must be below 8° C at receipt. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended. The lab shall store all samples at 4° C in the dark from receipt until completion of the test.
3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or most recent version thereof.
4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in subsection A. and the Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include the ACEC.
8. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing and do not comply with the acute statistical power standard of 29% as defined in WAC 173-205-020 must be repeated on a fresh sample with an increased number of replicates to increase the power.

## **S10. CHRONIC TOXICITY**

### **A. Effluent Characterization**

The Permittee shall conduct chronic toxicity testing on the final effluent. The two chronic toxicity tests listed below shall be conducted on each sample taken for effluent characterization.

Testing shall begin within sixty (60) days of the permit effective date.

Effluent testing for chronic toxicity shall be conducted biannually for one year. The Permittee shall conduct chronic toxicity testing during effluent characterization on a series of at least five concentrations of effluent in order to determine appropriate point estimates. This series of dilutions shall include the ACEC. The Permittee shall compare the ACEC to the control using hypothesis testing at the 0.05 level of significance as described in Appendix H, EPA/600/4-89/001.

Chronic toxicity tests shall be conducted with the following two species and the most recent version of the following protocols:

Freshwater Chronic Toxicity Test Species		Method
Fathead minnow	<i>Pimephales promelas</i>	EPA/600/4-91/002
Water flea	<i>Ceriodaphnia dubia</i>	EPA/600/4-91/002

**B. Effluent Limit for Chronic Toxicity**

After completion of effluent characterization, the Permittee has an effluent limit for chronic toxicity if any test conducted for effluent characterization shows a significant difference between the control and the ACEC at the 0.05 level of significance using hypothesis testing (Appendix H, EPA/600/4-89/001) and shall complete all applicable requirements in subsections C, D, and F.

If no significant difference is shown between the ACEC and the control in any of the chronic toxicity tests, the Permittee has no effluent limit for chronic toxicity and only subsections E and F apply.

**The effluent limit for chronic toxicity is no toxicity detected in a test concentration representing the chronic critical effluent concentration (CCEC).**

In the event of failure to pass the test described in subsection C, of this section, for compliance with the effluent limit for chronic toxicity, the Permittee is considered to be in compliance with all permit requirements for chronic whole effluent toxicity as long as the requirements in subsection D are being met to the satisfaction of the Department.

The CCEC means the maximum concentration of effluent allowable at the boundary of the mixing zone assigned in Section S1.B. pursuant to WAC 173-201A-100. The CCEC equals 100 % effluent.

**C. Monitoring for Compliance With an Effluent Limit for Chronic Toxicity**

Monitoring to determine compliance with the effluent limit shall be conducted biannually for the remainder of the permit term using each of the species listed in subsection A above on a rotating basis and performed using at a minimum the CCEC, the ACEC, and a control. The Permittee shall schedule the toxicity tests in the order listed in the permit unless the Department notifies the Permittee in writing of another species rotation schedule.

Compliance with the effluent limit for chronic toxicity means no statistically significant difference in response between the control and the test concentration representing the CCEC. The Permittee shall immediately implement subsection D if any chronic

toxicity test conducted for compliance monitoring determines a statistically significant difference in response between the control and the CCEC using hypothesis testing at the 0.05 level of significance (Appendix H, EPA/600/4-89/001). If the difference in response between the control and the CCEC is less than 20%, the hypothesis test shall be conducted at the 0.01 level of significance.

In order to establish whether the chronic toxicity limit is eligible for removal from future permits, the Permittee shall also conduct this same hypothesis test (Appendix H, EPA/600/4-89/001) to determine if a statistically significant difference in response exists between the ACEC and the control.

**D. Response to Noncompliance With an Effluent Limit for Chronic Toxicity**

If a toxicity test conducted for compliance monitoring under subsection C determines a statistically significant difference in response between the CCEC and the control, the Permittee shall begin additional compliance monitoring within one week from the time of receiving the test results. This additional monitoring shall be conducted monthly for three consecutive months using the same test and species as the failed compliance test. Testing shall be conducted using a series of at least five effluent concentrations and a control in order to be able to determine appropriate point estimates. One of these effluent concentrations shall equal the CCEC and be compared statistically to the nontoxic control in order to determine compliance with the effluent limit for chronic toxicity as described in subsection C. The discharger shall return to the original monitoring frequency in subsection C after completion of the additional compliance monitoring.

If the Permittee believes that a test indicating noncompliance will be identified by the Department as an anomalous test result, the Permittee may notify the Department that the compliance test result might be anomalous and that the Permittee intends to take only one additional sample for toxicity testing and wait for notification from the Department before completing the additional monitoring required in this subsection. The notification to the Department shall accompany the report of the compliance test result and identify the reason for considering the compliance test result to be anomalous. The Permittee shall complete all of the additional monitoring required in this subsection as soon as possible after notification by the Department that the compliance test result was not anomalous. If the one additional sample fails to comply with the effluent limit for chronic toxicity, then the Permittee shall proceed without delay to complete all of the additional monitoring required in this subsection. The one additional test result shall replace the compliance test result upon determination by the Department that the compliance test result was anomalous.

If all of the additional compliance monitoring conducted in accordance with this subsection complies with the permit limit, the Permittee shall search all pertinent and recent facility records (operating records, monitoring results, inspection records, spill reports, weather records, production records, raw material purchases, pretreatment records, etc.) and submit a report to the Department on possible causes and preventive measures for the transient toxicity event which triggered the additional compliance monitoring.

If toxicity occurs in violation of the chronic toxicity limit during the additional compliance monitoring, the Permittee shall submit a Toxicity Identification/Reduction Evaluation (TI/RE) plan to the Department. The TI/RE plan submittal shall be within sixty (60) days after the sample date for the third additional compliance monitoring test. If the Permittee decides to forgo the rest of the additional compliance monitoring tests required in this subsection because one of the first two additional compliance monitoring tests failed to meet the chronic toxicity limit, then the Permittee shall submit the TI/RE plan within sixty (60) days after the sample date for the first additional monitoring test to violate the chronic toxicity limit. The TI/RE plan shall be based on WAC 173-205-100(2) and shall be implemented in accordance with WAC 173-205-100(3).

E. Monitoring When There Is No Permit Limit for Chronic Toxicity

The Permittee shall test final effluent once in the last summer and once in the last winter prior to submission of the application for permit renewal. All species used in the initial chronic effluent characterization or substitutes approved by the Department shall be used and results submitted to the Department as a part of the permit renewal application process.

F. Sampling and Reporting Requirements

1. All reports for effluent characterization or compliance monitoring shall be submitted in accordance with the most recent version of Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* in regards to format and content. Reports shall contain bench sheets and reference toxicant results for test methods. If the lab provides the toxicity test data on floppy disk for electronic entry into the Department's database, then the Permittee shall send the disk to the Department along with the test report, bench sheets, and reference toxicant results.
2. Testing shall be conducted on 24-hour composite effluent samples. Composite samples taken for toxicity testing shall be cooled to 4 degrees Celsius while being collected and shall be sent to the lab immediately upon completion. Grab samples must be shipped on ice to the lab immediately upon collection. If a grab sample is received at the testing lab within one hour after collection, it must have a temperature below 20° C at receipt. If a grab sample is received at the testing lab within 4 hours after collection, it must be below 12° C at receipt. All other samples must be below 8° C at receipt. The lab shall begin the toxicity testing as soon as possible but no later than 36 hours after sampling was ended. The lab shall store all samples at 4° C in the dark from receipt until completion of the test.
3. All samples and test solutions for toxicity testing shall have water quality measurements as specified in Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria* or most recent version thereof.



4. All toxicity tests shall meet quality assurance criteria and test conditions in the most recent versions of the EPA manual listed in subsection A. and the Department of Ecology Publication #WQ-R-95-80, *Laboratory Guidance and Whole Effluent Toxicity Test Review Criteria*. If test results are determined to be invalid or anomalous by the Department, testing shall be repeated with freshly collected effluent.
5. Control water and dilution water shall be laboratory water meeting the requirements of the EPA manual listed in subsection A or pristine natural water of sufficient quality for good control performance.
6. The whole effluent toxicity tests shall be run on an unmodified sample of final effluent.
7. The Permittee may choose to conduct a full dilution series test during compliance monitoring in order to determine dose response. In this case, the series must have a minimum of five effluent concentrations and a control. The series of concentrations must include the ACEC and the CCEC.
8. All whole effluent toxicity tests, effluent screening tests, and rapid screening tests that involve hypothesis testing, and do not comply with the chronic statistical power standard of 39% as defined in WAC 173-205-020, must be repeated on a fresh sample with an increased number of replicates to increase the power.

## **S11. PROHIBITED DISCHARGES**

The Permittee shall comply with these General and Specific Prohibitions for Outfall 001 - City of Moses Lake municipal sewer system discharge.

### **A. General Prohibitions**

The Permittee shall not introduce into the POTW pollutant(s) which cause Pass Through or Interference.

### **B. Specific Prohibitions**

In addition, the following shall not be introduced into the POTW:

1. Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 60°C (140°F) using the test methods specified in 40 CFR 261.21.
2. Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference;
3. Any pollutant, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;

4. Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW collection system exceeds 40°C (104°F) unless the approval authority, upon request of the POTW, approves alternative temperature limits;
5. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;
6. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
7. Any trucked or hauled pollutants, except at discharge points designated by the POTW.
8. Pollutants which will cause corrosive structural damage to the POTW.

**C. Prohibited Unless Approved**

1. Any of the following discharges are prohibited unless approved by the Department under extraordinary circumstances (such as a lack of direct discharge alternatives due to combined sewer service or a need to augment sewage flows due to septic conditions):
  - a. Noncontact cooling water in significant volumes.
  - b. Storm water and other direct inflow sources.
  - c. Wastewaters significantly affecting system hydraulic loading, which do not require treatment or would not be afforded a significant degree of treatment by the system.
2. Unless specifically authorized in this permit, the discharge of dangerous wastes as defined in Chapter 173-303 WAC, is prohibited.

**S12. COMPLIANCE SCHEDULE TDS REDUCTION - OUTFALL 001**

The permittee shall accomplish the below tasks by the dates listed. No later than 14 days following each schedule date, the Permittee shall submit to the Department a report including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with the increment of progress, the reasons for delay, and the steps being taken to return the project to the schedule established.

Event	No Later Than
1. Completion of an engineering report updating alternatives to prevent, control, and/or treat process wastewaters discharged to Outfall 001 to reduce effluent TDS. This report shall include an implementation schedule for any alternatives that will be implemented at the facility.	July 1, 2006

**S13. COMPLIANCE SCHEDULE FOR FINAL PH LIMITATION - OUTFALL 003**

The permittee shall accomplish the below tasks by the dates listed. No later than 14 days following each schedule date, the Permittee shall submit to the Department a report including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with the increment of progress, the reasons for delay, and the steps being taken to return the project to the schedule established.

<b>Event</b>	<b>No Later Than</b>
1. The Permittee shall submit to the Department an Engineering report evaluating alternatives to comply with final effluent limitation for pH for outfall 003.	January 1, 2005
2. Obtain approval from the Department for the Engineering Report, Plans and Specifications, and Operation and Maintenance Manual for the planned facility improvements and/or operational changes to comply with final effluent limitation for pH for outfall 003.	July 1, 2006
3. Complete the approved facility improvements and/or operational changes and achieve full compliance with final effluent limitation for pH for outfall 003.	January 1, 2007

**S14. AUTHORIZATION FROM BUREAU OF RECLAMATION/DOWNSTREAM IRRIGATION DISTRICTS FOR DISCHARGE TO DRAIN DE 226**

By January 1, 2006, the Permittee shall provide to the Department a copy of the authorization(s) from the Bureau of Reclamation/Downstream Irrigation Districts for the discharge to drain DE 226. If the authorization has not been obtained by January 1, 2006, the Permittee shall provide an update on the status of obtaining the authorization. Once acquired, the Permittee shall provide a copy of this authorization to the Department.

## **GENERAL CONDITIONS**

### **G1. SIGNATORY REQUIREMENTS**

All applications, reports, or information submitted to the Department shall be signed and certified.

- A. All permit applications shall be signed by either a responsible corporate officer of at least the level of vice president of a corporation, a general partner of a partnership, or the proprietor of a sole proprietorship.
- B. All reports required by this permit and other information requested by the Department shall be signed by a person described above or by a duly authorized representative of that person. A person is a duly authorized representative only if:
  - 1. The authorization is made in writing by a person described above and submitted to the Department.
  - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility, such as the position of plant manager, superintendent, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters. (A duly authorized representative may thus be either a named individual or any individual occupying a named position.)
- C. Changes to authorization. If an authorization under paragraph B.2 above is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, a new authorization satisfying the requirements of paragraph B.2 above must be submitted to the Department prior to or together with any reports, information, or applications to be signed by an authorized representative.
- D. Certification. Any person signing a document under this section shall make the following certification:

I certify under penalty of law, that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

### **G2. RIGHT OF INSPECTION AND ENTRY**

The Permittee shall allow an authorized representative of the Department, upon the presentation of credentials and such other documents as may be required by law:

- A. To enter upon the premises where a discharge is located or where any records must be kept under the terms and conditions of this permit.
- B. To have access to and copy - at reasonable times and at reasonable cost - any records required to be kept under the terms and conditions of this permit.
- C. To inspect - at reasonable times - any facilities, equipment (including monitoring and control equipment), practices, methods, or operations regulated or required under this permit.
- D. To sample or monitor - at reasonable times - any substances or parameters at any location for purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act.

### **G3. PERMIT ACTIONS**

This permit may be modified, revoked and reissued, or terminated either at the request of any interested person (including the permittee) or upon the Department's initiative. However, the permit may only be modified, revoked and reissued, or terminated for the reasons specified in 40 CFR 122.62, 122.64 or WAC 173-220-150 according to the procedures of 40 CFR 124.5.

- A. The following are causes for terminating this permit during its term, or for denying a permit renewal application:
  - 1. Violation of any permit term or condition.
  - 2. Obtaining a permit by misrepresentation or failure to disclose all relevant facts.
  - 3. A material change in quantity or type of waste disposal.
  - 4. A determination that the permitted activity endangers human health or the environment or contributes to water quality standards violations and can only be regulated to acceptable levels by permit modification or termination [40 CFR part 122.64(3)].
  - 5. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit [40 CFR part 122.64(4)].
  - 6. Nonpayment of fees assessed pursuant to RCW 90.48.465.
  - 7. Failure or refusal of the permittee to allow entry as required in RCW 90.48.090.
- B. The following are causes for modification but not revocation and reissuance except when the permittee requests or agrees:
  - 1. A material change in the condition of the waters of the state.
  - 2. New information not available at the time of permit issuance that would have justified the application of different permit conditions.

3. Material and substantial alterations or additions to the permitted facility or activities which occurred after this permit issuance.
  4. Promulgation of new or amended standards or regulations having a direct bearing upon permit conditions, or requiring permit revision.
  5. The Permittee has requested a modification based on other rationale meeting the criteria of 40 CFR part 122.62.
  6. The Department has determined that good cause exists for modification of a compliance schedule, and the modification will not violate statutory deadlines.
  7. Incorporation of an approved local pretreatment program into a municipality's permit.
- C. The following are causes for modification or alternatively revocation and reissuance:
1. Cause exists for termination for reasons listed in A1 through A7, of this section, and the Department determines that modification or revocation and reissuance is appropriate.
  2. The Department has received notification of a proposed transfer of the permit. A permit may also be modified to reflect a transfer after the effective date of an automatic transfer (General Condition G8) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee.

#### **G4. REPORTING PLANNED CHANGES**

The Permittee shall, as soon as possible, but no later than sixty (60) days prior to the proposed changes, give notice to the Department of planned physical alterations or additions to the permitted facility, production increases, or process modification which will result in: 1) the permitted facility being determined to be a new source pursuant to 40 CFR 122.29(b); 2) a significant change in the nature or an increase in quantity of pollutants discharged; or 3) a significant change in the Permittee's sludge use or disposal practices. Following such notice, and the submittal of a new application or supplement to the existing application, along with required engineering plans and reports, this permit may be modified, or revoked and reissued pursuant to 40 CFR 122.62(a) to specify and limit any pollutants not previously limited. Until such modification is effective, any new or increased discharge in excess of permit limits or not specifically authorized by this permit constitutes a violation.

#### **G5. PLAN REVIEW REQUIRED**

Prior to constructing or modifying any wastewater control facilities, an engineering report and detailed plans and specifications shall be submitted to the Department for approval in accordance with Chapter 173-240 WAC. Engineering reports, plans, and specifications shall be submitted at least one hundred eighty (180) days prior to the planned start of construction unless a shorter time is approved by Ecology. Facilities shall be constructed and operated in accordance with the approved plans.

**G6. COMPLIANCE WITH OTHER LAWS AND STATUTES**

Nothing in this permit shall be construed as excusing the Permittee from compliance with any applicable federal, state, or local statutes, ordinances, or regulations.

**G7. DUTY TO REAPPLY**

The Permittee shall apply for permit renewal at least 180 days prior to the specified expiration date of this permit.

**G8. TRANSFER OF THIS PERMIT**

In the event of any change in control or ownership of facilities from which the authorized discharge emanate, the Permittee shall notify the succeeding owner or controller of the existence of this permit by letter, a copy of which shall be forwarded to the Department.

**A. Transfers by Modification**

Except as provided in paragraph B below, this permit may be transferred by the Permittee to a new owner or operator only if this permit has been modified or revoked and reissued under 40 CFR 122.62(b)(2), or a minor modification made under 40 CFR 122.63(d), to identify the new Permittee and incorporate such other requirements as may be necessary under the Clean Water Act.

**B. Automatic Transfers**

This permit may be automatically transferred to a new Permittee if:

1. The Permittee notifies the Department at least 30 days in advance of the proposed transfer date.
2. The notice includes a written agreement between the existing and new Permittee's containing a specific date transfer of permit responsibility, coverage, and liability between them.
3. The Department does not notify the existing Permittee and the proposed new Permittee of its intent to modify or revoke and reissue this permit. A modification under the subparagraph may also be minor modification under 40 CFR 122.63. If this notice is not received, the transfer is effective on the date specified in the written agreement.

**G9. REDUCED PRODUCTION FOR COMPLIANCE**

The Permittee, in order to maintain compliance with its permit, shall control production and/or all discharges upon reduction, loss, failure, or bypass of the treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**G10. REMOVED SUBSTANCES**

Collected screenings, grit, solids, sludges, filter backwash, or other pollutants removed in the course of treatment or control of wastewaters shall not be resuspended or reintroduced to the final effluent stream for discharge to state waters.

**G11. DUTY TO PROVIDE INFORMATION**

The Permittee shall submit to the Department, within a reasonable time, all information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating this permit or to determine compliance with this permit. The Permittee shall also submit to the Department upon request, copies of records required to be kept by this permit.

**G12. OTHER REQUIREMENTS OF 40 CFR**

All other requirements of 40 CFR 122.41 and 122.42 are incorporated in this permit by reference.

**G13. ADDITIONAL MONITORING**

The Department may establish specific monitoring requirements in addition to those contained in this permit by administrative order or permit modification.

**G14. PAYMENT OF FEES**

The Permittee shall submit payment of fees associated with this permit as assessed by the Department.

**G15. PENALTIES FOR VIOLATING PERMIT CONDITIONS**

Any person who is found guilty of willfully violating the terms and conditions of this permit shall be deemed guilty of a crime, and upon conviction thereof shall be punished by a fine of up to ten thousand dollars (\$10,000) and costs of prosecution, or by imprisonment in the discretion of the court. Each day upon which a willful violation occurs may be deemed a separate and additional violation.

Any person who violates the terms and conditions of a waste discharge permit shall incur, in addition to any other penalty as provided by law, a civil penalty in the amount of up to ten thousand dollars (\$10,000) for every such violation. Each and every such violation shall be a separate and distinct offense, and in case of a continuing violation, every day's continuance shall be deemed to be a separate and distinct violation.

**G16. UPSET**

Definition – “Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the Permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.



An upset constitutes an affirmative defense to an action brought for noncompliance with such technology-based permit effluent limitations if the requirements of the following paragraph are met.

A Permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence that: 1) an upset occurred and that the Permittee can identify the cause(s) of the upset; 2) the permitted facility was being properly operated at the time of the upset; 3) the Permittee submitted notice of the upset as required in condition S3.E; and 4) the Permittee complied with any remedial measures required under S4.C of this permit.

In any enforcement proceeding the Permittee seeking to establish the occurrence of an upset has the burden of proof.

#### **G17. PROPERTY RIGHTS**

This permit does not convey any property rights of any sort, or any exclusive privilege.

#### **G18. DUTY TO COMPLY**

The Permittee shall comply with all conditions of this permit. Any permit noncompliance constitutes a violation of the Clean Water Act and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or denial of a permit renewal application.

#### **G19. TOXIC POLLUTANTS**

The Permittee shall comply with effluent standards or prohibitions established under Section 307(a) of the Clean Water Act for toxic pollutants within the time provided in the regulations that establish those standards or prohibitions, even if this permit has not yet been modified to incorporate the requirement.

#### **G20. PENALTIES FOR TAMPERING**

The Clean Water Act provides that any person who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this permit shall, upon conviction, be punished by a fine of not more than \$10,000 per violation, or by imprisonment for not more than two years per violation, or by both. If a conviction of a person is for a violation committed after a first conviction of such person under this Condition, punishment shall be a fine of not more than \$20,000 per day of violation, or by imprisonment of not more than four (4) years, or by both.

#### **G21. REPORTING ANTICIPATED NON-COMPLIANCE**

The Permittee shall give advance notice to the Department by submission of a new application or supplement thereto at least one hundred and eighty (180) days prior to commencement of such discharges, of any facility expansions, production increases, or other planned changes, such as process modifications, in the permitted facility or activity which may result in noncompliance with permit limits or conditions. Any maintenance of facilities, which might necessitate unavoidable interruption of operation and degradation of effluent quality, shall be scheduled during non-critical water quality periods and carried out in a manner approved by the Department.

**G22. REPORTING OTHER INFORMATION**

Where the Permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or information.

**G23. REPORTING REQUIREMENTS APPLICABLE TO EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS**

The Permittee belonging to the categories of existing manufacturing, commercial, mining, or silviculture must notify the Department as soon as they know or have reason to believe:

- A. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels:”
  - 1. One hundred micrograms per liter (100 µg/l).
  - 2. Two hundred micrograms per liter (200 µg/l) for acrolein and acrylonitrile; five hundred micrograms per liter (500 µg/l) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and one milligram per liter (1 mg/l) for antimony.
  - 3. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  - 4. The level established by the Director in accordance with 40 CFR 122.44(f).
- B. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in this permit, if that discharge will exceed the highest of the following “notification levels:”
  - 1. Five hundred micrograms per liter (500µg/L).
  - 2. One milligram per liter (1 mg/L) for antimony.
  - 3. Ten (10 ) times the maximum concentration value reported for that pollutant in the permit application in accordance with 40 CFR 122.21(g)(7).
  - 4. The level established by the Director in accordance with 40 CFR 122.44(f).

**G24. COMPLIANCE SCHEDULES**

Reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of this permit shall be submitted no later than fourteen (14) days following each schedule date.